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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/091,131 | 03/05/2002 | Glenn S. Solberg | 2137-020393 | 7113 |

7590 11/17/2003

Lester N. Fortney
Webb Ziesenheim Logsdon Orkin & Hanson
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219

EXAMINER

BOEHLER, ANNE MARIE M

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3611

DATE MAILED: 11/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/091,131

Applicant(s)

SOLBERG, GLENN S.

Examiner

Anne Marie M. Boehler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-12, 15, 18, 19, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 15, 18, 19, 21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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1. Claims 1-10, 12, and 15 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,352,278. Although the conflicting claims are not identical, they are not patentably distinct from each other because although the claims are not identical, all of the presently claimed features are recited in the prior patent claims.

2. The indicated allowability of claim 21 is withdrawn in view of the newly discovered reference(s) to Tunis. Rejections based on the newly cited reference(s) follow.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5, 7, 8, 10, 12, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duncan in view of Tunis.

Duncan shows a tow bar assembly with first and second telescoping members including a locking device 44 for releasable locking the telescoping members together. The locking device includes a movable member 44 and a release device 60 which is spring biased by a spring 52 that is held in place by a cover 62. Two telescoping pairs are connected to a vehicle by universal connectors 16-30.

Duncan lacks a latch plate engageable by a projection on a pivoting lever.

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Tunis shows a releaser device for a movable member 10 (round pin) including a pivoting lever 13 with an upward projection or cam 15 that engages the underside of a spring biased latch plate 6. The latch plate supports a movable member 10.

It would have been obvious to one of ordinary skill in the art to provide the telescoping members of Duncan with a lock and releasing means as taught by Tunis, in order to facilitate release of the locking member. Regarding claim 4, it is old and well known and would have been obvious to chamfer the locking pin, in order to guide it into the aligned apertures of the telescoping members.

5. Claims 6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duncan and Tunis as applied to claim 1 above, and further in view of Schultz.

Duncan and Tunis lack multiple apertures for engagement with the locking member.

Schultz shows a telescoping tow arm with multiple holes for adjustable locked position of the telescoping members.

It would have been obvious to one of ordinary skill in the art to provide the combination tow arm with multiple apertures in at least one of the telescoping members, as taught by Schultz and as is old and well known in the art, in order to provide multiple locked positions.

6. Claims 9, 15, 18, and 22 are allowable over the prior art of record.

7. Applicant's arguments with respect to claims 1-8 and 10-12 have been considered but are moot in view of the new ground(s) of rejection.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne Marie M Boehler whose telephone number is 703-308-0422. The examiner can normally be reached on 7:30-5:00, Monday-Thursday, and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 703-308-0629. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9325 for regular communications and 703-872-09327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Anne Marie M Boehler
Primary Examiner
Art Unit 3611

amb
November 13, 2003